

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-NINTH LEGISLATURE

FORTY-FIFTH LEGISLATIVE DAY
WEDNESDAY, FEBRUARY 21, 2007

Senate Chamber

At the request of the President, Senator Darrington called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senators Andreason, Hammond, and McKenzie, absent and formally excused by the Chair; President Pro Tempore Geddes; and Senators Cameron, Gannon, Jorgenson, Little, and Stegner, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Jamie Godfrey, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 20, 2007, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

President Risch assumed the Chair.

SJM 105 BY STATE AFFAIRS COMMITTEE A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES TRADE REPRESENTATIVE, the SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the state of Idaho has a strong and vibrant economic relationship with Taiwan; and

WHEREAS, the agricultural and manufacturing sectors of the Idaho economy, most notably the computer and electronic products, chemicals and machine industries, would benefit significantly if the United States entered into a free trade agreement with Taiwan; and

WHEREAS, a free trade agreement between the United States and Taiwan would substantially reduce or eliminate most import quotas, duties and other trade barriers, thereby expanding market opportunities for manufactured goods and agricultural products from Idaho and the entire United States; and

WHEREAS, the United States has completed or is in the process of negotiating free trade agreements with several countries and regions; and

WHEREAS, a free trade agreement with Taiwan is appropriate: Taiwan is already the United States' eighth largest trading partner and the sixth most important destination of United States agricultural exports; Taiwan's economy is thriving and robust; and Taiwan maintains longstanding educational and cultural ties with the United States; and

WHEREAS, Taiwan was admitted to the World Trade Organization (WTO) on January 1, 2002, and a free trade agreement between the United States and Taiwan would extend the coverage of WTO agreements to products, sectors and conditions of trade not adequately covered and it would provide a platform to address issues such as Taiwan's tariff rate on agricultural imports from the United States, which currently averages over fifteen percent; and

WHEREAS, Public Law 107-210, the Trade Act of 2002, gives the president the authority to enter into trade agreements with foreign countries whenever the president determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States; and

WHEREAS, President George W. Bush, speaking before the historic signing of the United States-Australia Free Trade Agreement in 2004, emphasized that he supports free and open trade because "it has the power to create new wealth for whole nations and new opportunities for millions of people" and "has a record for creating jobs and raising living standards and lowering consumer prices."

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Idaho Legislature hereby commends the Republic of China (Taiwan) for its close economic and business ties with the state of Idaho and does respectfully urge and request that the President of the United States extend the benefits of free trade by directing the United States Trade Representative to negotiate a free trade agreement between the United States and Taiwan.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the United States Trade Representative, the President of the Senate, the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SJM 106
BY STATE AFFAIRS COMMITTEE
 A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE, TO THE SECRETARY OF THE DEPARTMENT OF THE INTERIOR, TO THE SECRETARY OF THE FEDERAL DEPARTMENT OF EDUCATION, TO THE CHIEF OF THE UNITED STATES FOREST SERVICE, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Fifty-ninth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, bipartisan legislation sponsored by U.S. Senators Larry Craig and Ron Wyden has financially assisted counties with large tracts of federal timberland within the county boundaries; and

WHEREAS, the Craig-Wyden bill set annual payments to counties with large tracts of federal timberland, providing crucial funding for schools and roads and providing millions of dollars for a variety of natural resource conservation projects from weed control to bridge replacements, from thinning forests to trail building; and

WHEREAS, the Craig-Wyden bill's reauthorization is necessary to help rural counties with timberlands plan and maintain their transportation infrastructure; and

WHEREAS, certain counties of Idaho are hamstrung in their ability to collect property taxes by a supermajority of federal land ownership within their boundaries; and

WHEREAS, if the Craig-Wyden bill is not reauthorized, it will have little effect on the federal budget but could devastate timber counties and towns in the Northwest and Idaho; and

WHEREAS, more than fifty percent of the Idaho Panhandle is owned by the federal government and counties cannot collect property tax on federal lands to support schools and to build and maintain roads; and

WHEREAS, it is crucial in tight economic times that the U.S. government meet its obligation to the counties;

WHEREAS, in some counties the reauthorization of the Craig-Wyden bill means the difference between \$22,000 and \$1,080,000 in support for schools and roads; and

WHEREAS, in other counties, failure to reauthorize the Craig-Wyden bill means the per capita loss of \$235 in support.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we support reauthorization of the "Secure Rural Schools and Community Self-Determination Act" or the enactment of its equitable equivalent by the Congress of the United States and we request the President of the United States to support this effort.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, George W. Bush, the Secretary of the Department of Agriculture, the Secretary of the Department of the Interior, the Secretary of the

federal Department of Education, the Chief of the United States Forest Service, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

SCR 111
BY STATE AFFAIRS COMMITTEE
 A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY TO REVIEW ALLOCATION AND EXPENDITURE OF REVENUES BY THE IDAHO TRANSPORTATION DEPARTMENT, TO EVALUATE THE INTERNAL ORGANIZATION AND ADMINISTRATIVE PRACTICES UTILIZED BY THE IDAHO TRANSPORTATION DEPARTMENT TO MEET ITS STATUTORY OBLIGATIONS TO THE TRAVELING PUBLIC AND TO INVESTIGATE HOW THE DEPARTMENT CAN BEST PERFORM ITS DUTIES IN THE 21ST CENTURY.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Idaho Transportation Department, under the direction of the Idaho Transportation Board, is charged with the duty and responsibility of properly managing the funds of the department and finding the most efficient use of the revenues available to the department; and

WHEREAS, as the population of Idaho grows, the demands on the department to meet its current statutory obligations to the public are increasing; and

WHEREAS, the Legislature is looking ahead to the future and questioning if the current practices and organizational structure under which the department is currently operating are best suited to carry the department into the 21st century; and

WHEREAS, the Legislature recognizes the efforts of the department to address this growing concern and desires to partner with the department and build upon its forward-looking efforts.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study to review allocation and expenditure of revenues by the Idaho Transportation Department, to evaluate the internal organization and administrative practices utilized by the Idaho Transportation Department to meet its statutory obligations to the traveling public and to investigate how the department can best perform its duties in the 21st century.

BE IT FURTHER RESOLVED that the Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that nonlegislative members of the committee may be appointed by the co-chairs of the committee who are appointed by the Legislative Council. Nonlegislative members of the advisory committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the committee's recommendations or proposed legislation.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-ninth Idaho Legislature.

SJM 105, SJM 106, and SCR 111 were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Cameron, Little, and Stegner were recorded present at this order of business.

February 21, 2007

The JUDICIARY AND RULES Committee reports that **S 1163** and **S 1164** have been correctly printed.

DARRINGTON, Chairman

S 1163 was referred to the State Affairs Committee.

S 1164 was referred to the Judiciary and Rules Committee.

February 20, 2007

The JUDICIARY AND RULES Committee reports that **S 1010** and **S 1011** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1010** and **S 1011**, and ordered them transmitted to the House for the signature of the Speaker.

February 20, 2007

The TRANSPORTATION Committee reports out **S 1094** with the recommendation that it do pass.

McGEE, Chairman

S 1094 was filed for second reading.

February 20, 2007

The HEALTH AND WELFARE Committee reports out **S 1144** and **S 1093** with the recommendation that they do pass.

LODGE, Chairman

S 1144 and **S 1093** were filed for second reading.

February 20, 2007

The EDUCATION Committee reports out **S 1089** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

GOEDDE, Chairman

There being no objection, **S 1089** was referred to the Fourteenth Order of Business, General Calendar.

February 21, 2007

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1109** and **S 1155** with the recommendation that they do pass.

ANDREASON, Chairman

S 1109 and **S 1155** were filed for second reading.

February 21, 2007

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Bud Tracy to the Idaho State Board Authority, term to expire January 1, 2011;

Brad Foltman as Administrator of the Division of Financial Management, term to expire at the pleasure of the Governor;

Keith Johnson as Director of the Department of Administration, term to expire at the pleasure of the Governor.

McKENZIE, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

Senator Gannon was recorded present at this order of business.

February 20, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Gary Chamberlain of Challis, Idaho, was appointed as a member of the Idaho Water Resource Board to serve a term commencing January 23, 2007, and expiring January 1, 2011.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Resources and Environment Committee.

February 20, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Mike Bosen of Preston, Idaho, was appointed as a member of the Idaho State Racing Commission to serve a term commencing February 13, 2007, and expiring January 1, 2013.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

February 20, 2007

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that R. James Coleman of Hayden Lake, Idaho, was appointed as a member of the Idaho Transportation Board to serve a term commencing January 31, 2007, and expiring January 31, 2013.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*
/s/ C. L. 'Butch' Otter
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Transportation Committee.

The Senate advanced to the Ninth Order of Business.

Messages from the House

President Pro Tempore Geddes was recorded present at this order of business.

February 20, 2007

Mr. President:

I transmit herewith **H 156, H 147, H 117, HJM 3, H 4, H 34, H 180, and H 181** which have passed the House.

JUKER, Chief Clerk

H 156, H 147, H 117, HJM 3, H 4, H 34, H 180, and H 181 were filed for first reading.

February 20, 2007

Mr. President:

I return herewith **SCR 102** and **SCR 103** which have passed the House.

JUKER, Chief Clerk

SCR 102 and **SCR 103** were referred to the Judiciary and Rules Committee for enrolling.

February 20, 2007

Mr. President:

I transmit herewith Enrolled **H 33** and **H 30** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **H 33** and **H 30** and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced the State Affairs Committee report, relative to the Gubernatorial appointments of Jeff Anderson and Major General Lawrence F. LaFrenz, was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Stennett, seconded by Senator Little, the Gubernatorial appointment of Jeff Anderson as Director of the Idaho State Lottery Commission was confirmed by voice vote.

On motion by Senator Stegner, seconded by Senator Stennett, the Gubernatorial appointment of Major General Lawrence F. LaFrenz as Commanding General of the Idaho National Guard was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare letters of the Gubernatorial

appointment confirmations for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Judiciary and Rules Committee report, relative to the Gubernatorial appointments of Mike Matthews, Bill Young, and Pat Galvin, was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Lodge, seconded by Senator Burkett, the Gubernatorial appointment of Mike Matthews as a member of the Commission on Pardons and Parole was confirmed by voice vote.

On motion by Senator McGee, seconded by Senator Malepeai, the Gubernatorial appointment of Bill Young as a member of the Commission on Pardons and Parole was confirmed by voice vote.

On motion by Senator Darrington, seconded by Senator Burkett, the Gubernatorial appointment of Pat Galvin as a member of the Commission on Pardons and Parole was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare letters of the Gubernatorial appointment confirmations for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that **HCR 9** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Schroeder, seconded by Senator Burkett, **HCR 9** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

Moved by Senator Davis, seconded by Senator Stennett, that the following attaches be elected to fill the offices provided for by the *Constitution* of the State of Idaho and by statute:

Danielle Larson, Administrative Assistant to the Majority Leader

Pages:

Brie Joy Bermudez-Koch, Caldwell
 Sarah Marie Decker, Nampa
 Sibylle Gorla, Nampa
 Jamie Godfrey, Soda Springs
 Rachael Hansen, Boise
 Branden Huckstep, Eagle
 Heather Mallary, Boise
 Shoni Pegram, Caldwell,
 Logan Smyser, Parma
 John Tobiasson, Boise

The question being, Shall the attaches be elected?"

Roll call resulted as follows:

AYES--Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Heinrich, Hill, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKague, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 31.

NAYS--None.

Absent and excused--Andreason, Hammond, Jorgenson, McKenzie. Total - 4.

Total - 35.

Whereupon the President declared the attaches duly elected to their respective positions. The President further instructed the Sergeant at Arms to escort the attaches to the Desk at which time the Oath of Office was administered to the elected attaches and they were escorted from the Chamber.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

Senator Jorgenson was recorded present at this order of business.

S 1165

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE DECLARATION OF INTENT FOR WRITE-IN CANDIDATES; AMENDING SECTION 34-702A, IDAHO CODE, TO PROVIDE THAT ALL WRITE-IN CANDIDATES MUST FILE A DECLARATION OF INTENT BY THE EIGHTH FRIDAY PRECEDING A PRIMARY OR GENERAL ELECTION.

S 1166

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTION OF HIGHWAY DISTRICT COMMISSIONERS; AMENDING SECTION 34-625, IDAHO CODE, TO PROVIDE THAT EACH CANDIDATE FOR HIGHWAY DISTRICT COMMISSIONER IN SINGLE COUNTYWIDE DISTRICTS WITH A POPULATION OF TWO HUNDRED THOUSAND OR LESS SHALL FILE A DECLARATION OF CANDIDACY WITH THE COUNTY CLERK NOT LESS THAN NINETY DAYS PRIOR TO THE GENERAL ELECTION; AND AMENDING SECTION 34-625A, IDAHO CODE, TO PROVIDE THAT EACH CANDIDATE FOR HIGHWAY DISTRICT COMMISSIONER IN SINGLE COUNTYWIDE DISTRICTS WITH A POPULATION OF MORE THAN TWO HUNDRED THOUSAND SHALL FILE A DECLARATION OF CANDIDACY WITH THE COUNTY CLERK NOT LESS THAN NINETY DAYS PRIOR TO THE GENERAL ELECTION.

S 1165 and **S 1166** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 156, by Agricultural Affairs Committee, was introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

H 147, by Local Government Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 117 and **HJM 3**, by Transportation and Defense Committee, were introduced, read the first time at length, and referred to the Transportation Committee.

H 4 and **H 34**, by Health and Welfare Committee, were introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 180 by Revenue and Taxation, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 181, by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1098, by State Affairs Committee, was read the second time at length and filed for third reading.

S 1143 and **S 1148**, by Health and Welfare Committee, were read the second time at length and filed for third reading.

S 1150, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

H 76, by Local Government Committee, was read the second time at length and filed for third reading.

S 1120, by Local Government and Taxation Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

Senators Hammond and McKenzie were recorded present at this order of business.

S 1056 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stennett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai, McGee, McKenzie, Richardson, Schroeder, Stegner, Stennett, Werk. Total - 30.

NAYS--Bair, McKague, Pearce, Siddoway. Total - 4.

Absent and excused--Andreason. Total - 1.

Total - 35.

Whereupon the President declared **S 1056** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:10 p.m. until the hour of 10:30 a.m., Thursday, February 22, 2007.

JAMES E. RISCH, President

Attest: RUSTI HORTON, Assistant Secretary